

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6574**

**BILL NUMBER:** HB 1177

**DATE PREPARED:** Jan 3, 2002

**BILL AMENDED:**

**SUBJECT:** Murder Sentences for Mentally Ill Defendants.

**FISCAL ANALYST:** Mark Goodpaster

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**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill prohibits a court from sentencing a defendant to death or life imprisonment without parole for committing murder if the defendant is found guilty but mentally ill at the time the defendant committed the murder or enters a plea to that effect that is accepted by the court.

**Effective Date:** July 1, 2002.

**Explanation of State Expenditures:** This bill could limit the sentence of certain defendants convicted of murder to a period of incarceration between 45 and 65 years depending on aggravating or mitigating circumstances of the case. These prohibitions could reduce the amount of time that the Office of the Attorney General and the State Public Defender's Office spend on murder cases that are appealed. In addition, the Public Defense Fund reimburses counties for 50% of attorneys and related expenses of a death penalty case and 40% of the related attorney and related expenses in criminal cases in which the death penalty has not been requested. As a result, this prohibition would reduce reimbursements from the Public Defense Fund. However, the length of stay in Department of Correction (DOC) facilities would increase from about 10 years to 32.5 years.

LSA staff compared the costs to the state of each sentencing option for a hypothetical 30-year-old offender. (The average age of 84 offenders who were sentenced to death was 30 at the time when a request for a death penalty was made against them.) It was assumed an offender would spend an average period of 11 years on death row before being executed if the death penalty was imposed and 32.5 years if an offender was sentenced to 65 years in prison. (Most offenders reduce their sentences by one day for each day that they comply with prison facility codes of behavior.) Offenders sentenced to life without parole would remain in DOC facilities until the age of 77. Because these costs occur at different points in time, a net present value was prepared for each cost stream assuming an annual inflation rate of 5.2%. The following table presents these costs.

<b>Costs to the State of Sentencing Options for a 30-Year-Old Offender Sentenced for Aggravated Murder</b>	
<u>Sentence</u>	<u>Net Present Value</u>
Death Penalty <i>(no longer available by this bill)</i>	\$510,158
Life Without Parole <i>(no longer available by this bill)</i>	\$489,012
65 Years with 50% Credit Time	\$430,367

*Background:* There are three general stages of review of criminal cases at the state and federal level: direct appeal and post conviction relief at the state level and habeas corpus at the federal level. The Office of the Attorney General represents the state in all three stages of review in death penalty cases, and in direct appeal and habeas corpus if a determinate sentence is imposed. The Office of the State Public Defender represents convicted offenders requesting indigent counsel in post conviction relief.

For the Office of the State Public Defender, the estimated staff costs are \$191,182 for a death penalty case, while the staff costs for a case involving life without parole is an estimated \$3,724. For the Office of the Attorney General, the staff costs are \$72,503 for a death penalty case and \$12,004 for a case involving life without parole. Besides the staff costs for legal representation, both the Department of Correction and the Indiana State Police generally incur added overtime costs for providing security in death penalty cases around the time of the execution.

The costs to the Department of Correction would likely be greater if an offender is housed in DOC facilities for a determinate sentence of between 45 and 65 years than if an offender is executed.

### **Explanation of State Revenues:**

**Explanation of Local Expenditures:** *Background:* Of the three possible sentencing options for murder, the death penalty is generally the most expensive for trial courts to conduct because two attorneys are required to represent the accused, and a bifurcated trial is conducted to determine guilt or innocence and whether a sentence of death is warranted. Life without parole is the next most expensive option because, while two attorneys are not required for legal representation, a bifurcated trial is also required to determine guilt or innocence and then whether a sentence of life without parole is warranted. Determinate sentencing of between 45 and 65 years is the least expensive option because one trial is conducted and two attorneys are not required to represent the defendant.

The following table summarizes the difference between these three options:

<b><u>Sentencing Option</u></b>	<b><u>Number of Defense Attorneys Needed</u></b>	<b><u>Type of Trial Conducted</u></b>
Death Penalty	Two	Bifurcated - one to determine guilt or innocence and one to determine whether death penalty is warranted.; a sentencing hearing is separate
Life Without Parole	One	Bifurcated - one to determine guilt or innocence and one to determine whether death penalty is warranted.; a sentencing hearing is separate
Determinate Sentence Between 45 and 65 Years	One	A single trial to determine guilt or innocence; a sentencing hearing is separate

Consequently, the costs of legal representation for a case where the most serious sentence is between 45 and 65 years would likely be lower than the costs of a case involving life without parole.

No information is available on the costs of murder cases in which the most serious sentence was between 45 and 65 years incarceration. However, at the request of the Criminal Law Study Commission, Legislative Services Agency staff compared the costs of death penalty cases and cases in which life without parole was the most serious outcome that could occur. The following table displays the cost components for a “typical” death penalty trial and a trial where life without parole is the most serious sentence.

<b>Cost Components for Murder Trials:</b>		
	<b><u>Death Penalty</u></b>	<b><u>Life Without Parole</u></b>
Attorneys and Related Costs*	\$107,804	\$27,370
Jury and Related Costs	\$46,375	\$10,150
Cost of Appeals	\$54,355	\$5,466
Prosecuting Attorney	\$2,340	\$2,948
County Sheriff	\$8,472	\$4,380
Total Costs	\$219,346	\$50,314
*Net Costs After Reimbursement From Public Defense Fund		

The cost of legal representation for a criminal defendant in a death penalty is four times as expensive as the costs of a criminal trial in which the most serious sentence is life without parole. The costs of trial where a determinate sentence is the most serious sentence is likely to be less than the costs of a trial in which life without parole is the most serious sentence.

#### **Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction, Office of the Attorney General, Office of the State Public Defender, State Police.

**Local Agencies Affected:** Trial Courts, County Sheriff.

**Information Sources:** Indiana Supreme Court; The Application of Indiana’s Capital Sentencing Law, Findings of the Indiana Criminal Law Study Commission (draft copy).